

117TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To prohibit retail businesses from refusing cash payments, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. MENENDEZ (for himself and Mr. CRAMER) introduced the following bill;  
which was read twice and referred to the Committee on

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**A BILL**

To prohibit retail businesses from refusing cash payments,  
and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Payment Choice Act  
5       of 2022”.

6       **SEC. 2. SENSE OF CONGRESS.**

7       It is the sense of Congress that every consumer has  
8       the right to use cash at retail businesses who accept in-  
9       person payments.

1 **SEC. 3. RETAIL BUSINESSES PROHIBITED FROM REFUSING**  
2 **CASH PAYMENTS.**

3 (a) IN GENERAL.—Subchapter I of chapter 51 of title  
4 31, United States Code, is amended by adding at the end  
5 the following:

6 **“§ 5104. Retail businesses prohibited from refusing**  
7 **cash payments**

8 “(a) IN GENERAL.—Any person engaged in the busi-  
9 ness of selling or offering goods or services at retail to  
10 the public with a person accepting in-person payments at  
11 a physical location (including a person accepting payments  
12 for telephone, mail, or internet-based transactions who is  
13 accepting in-person payments at a physical location)—

14 “(1) shall accept cash as a form of payment for  
15 sales of less than \$2,000 made at such physical loca-  
16 tion; and

17 “(2) may not charge cash-paying customers a  
18 higher price compared to the price charged to cus-  
19 tomers not paying with cash.

20 “(b) EXCEPTIONS.—

21 “(1) IN GENERAL.—Subsection (a) shall not  
22 apply to a person if such person—

23 “(A) is unable to accept cash because of—

24 “(i) a sale system failure that tempo-  
25 rarily prevents the processing of cash pay-  
26 ments; or

1 “(ii) a temporary insufficiency in cash  
2 on hand needed to provide change; or

3 “(B) provides customers with the means,  
4 on the premises, to convert cash into a card  
5 that is either a general-use prepaid card, a gift  
6 card, or an access device for electronic fund  
7 transfers for which—

8 “(i) there is no fee for the use of the  
9 card;

10 “(ii) there is not a minimum deposit  
11 amount greater than 1 dollar;

12 “(iii) amounts loaded on the card do  
13 not expire, as required under paragraph  
14 (2);

15 “(iv) there is no collection of any per-  
16 sonal identifying information from the cus-  
17 tomer;

18 “(v) there is no fee to use the card;  
19 and

20 “(vi) there may be a limit to the num-  
21 ber of transactions on such cards.

22 “(2) INACTIVITY .—A person seeking exception  
23 from subsection (a) may charge an inactivity fee in  
24 association with a prepaid card offered by such per-  
25 son if—

1           “(A) there has been no activity with re-  
2           spect to the card during the 12-month period  
3           ending on the date on which the inactivity fee  
4           is imposed;

5           “(B) not more than 1 inactivity fee is im-  
6           posed in any 1-month period; and

7           “(C) it is clearly and conspicuously stated,  
8           on the face of the mechanism that issues the  
9           card and on the card—

10           “(i) that an inactivity fee or charge  
11           may be imposed;

12           “(ii) the frequency at which such inac-  
13           tivity fee may be imposed; and

14           “(iii) the amount of such inactivity  
15           fee.

16           “(c) RIGHT TO NOT ACCEPT LARGE BILLS.—

17           “(1) IN GENERAL.—Notwithstanding subsection  
18           (a), for the 5-year period beginning on the date of  
19           enactment of this section, this section shall not re-  
20           quire a person to accept cash payments in \$50 bills  
21           or any larger bill.

22           “(2) RULEMAKING.—

23           “(A) IN GENERAL.—The Secretary shall  
24           issue a rule on the date that is 5 years after the  
25           date of the enactment of this section with re-

1           spect to any bills a person is not required to ac-  
2           cept.

3           “(B) REQUIREMENT.—When issuing a rule  
4           under subparagraph (A), the Secretary shall re-  
5           quire persons to accept \$1, \$5, \$10, \$20 and  
6           \$50 bills.

7           “(d) ENFORCEMENT.—

8           “(1) PREVENTATIVE RELIEF.—Whenever any  
9           person has engaged, or there are reasonable grounds  
10          to believe that any person is about to engage, in any  
11          act or practice prohibited by this section, a civil ac-  
12          tion for preventive relief, including an application for  
13          a permanent or temporary injunction, restraining  
14          order, or other order may be brought against such  
15          person.

16          “(2) CIVIL PENALTIES.—Any person who vio-  
17          lates this section shall—

18                  “(A) be liable for actual damages;

19                  “(B) be fined not more than \$2,500 for a  
20                  first offense; and

21                  “(C) be fined not more than \$5,000 for a  
22                  second or subsequent offense.

23          “(3) JURISDICTION.—An action under this sec-  
24          tion may be brought in any United States district

1 court, or in any other court of competent jurisdic-  
2 tion.

3 “(4) INTERVENTION OF ATTORNEY GENERAL.—  
4 Upon timely application, a court may, in its discre-  
5 tion, permit the Attorney General to intervene in a  
6 civil action brought under this subsection, if the At-  
7 torney General certifies that the action is of general  
8 public importance.

9 “(5) AUTHORITY TO APPOINT COURT-PAID AT-  
10 TORNEY.—Upon application by an individual and in  
11 such circumstances as the court may determine just,  
12 the court may appoint an attorney for such indi-  
13 vidual and may authorize the commencement of a  
14 civil action under this subsection without the pay-  
15 ment of fees, costs, or security.

16 “(6) ATTORNEY’S FEES.—In any action com-  
17 menced pursuant to this section, the court, in its  
18 discretion, may allow the prevailing party, other  
19 than the United States, a reasonable attorney’s fee  
20 as part of the costs, and the United States shall be  
21 liable for costs the same as a private person.

22 “(7) REQUIREMENTS IN CERTAIN STATES AND  
23 LOCAL AREAS.—In the case of an alleged act or  
24 practice prohibited by this section which occurs in a  
25 State, or political subdivision of a State, which has

1       a State or local law prohibiting such act or practice  
2       and establishing or authorizing a State or local au-  
3       thority to grant or seek relief from such act or prac-  
4       tice or to institute criminal proceedings with respect  
5       thereto upon receiving notice thereof, no civil action  
6       may be brought hereunder before the expiration of  
7       30 days after written notice of such alleged act or  
8       practice has been given to the appropriate State or  
9       local authority by registered mail or in person, pro-  
10      vided that the court may stay proceedings in such  
11      civil action pending the termination of State or local  
12      enforcement proceedings.

13      “(e) GREATER PROTECTION UNDER STATE LAW.—  
14      This section shall not preempt any law of a State, the Dis-  
15      trict of Columbia, a Tribal government, or a territory of  
16      the United States if the protections that such law affords  
17      to consumers are greater than the protections provided  
18      under this section.

19      “(f) RULEMAKING.—The Secretary shall issue such  
20      rules as the Secretary determines are necessary to imple-  
21      ment this section, which may prescribe additional excep-  
22      tions to the application of the requirements described in  
23      subsection (a).

24      “(g) ANNUAL REPORTS ON THE GEOGRAPHIC DIS-  
25      TRIBUTION OF AUTOMATED TELLER MACHINES OWNED

1 BY FEDERALLY INSURED DEPOSITORY INSTITUTIONS.—  
2 Beginning on the date that is 1 year after the date of  
3 enactment of this section, and annually thereafter, the  
4 Federal Deposit Insurance Corporation, with respect to  
5 depository institutions insured by the Corporation, and the  
6 National Credit Union Administration, with respect to  
7 credit unions insured by the National Credit Union Share  
8 Insurance Fund, shall submit the Committee on Banking,  
9 Housing, and Urban Affairs of the Senate and the Com-  
10 mittee on Financial Services of the House of Representa-  
11 tives a report that provides—

12           “(1) the number of automated teller machines  
13           owned and in service by each institution insured by  
14           such agency;

15           “(2) the location of each such automated teller  
16           machine that is installed at a fixed site; and

17           “(3) the approximate geographic range or ra-  
18           dius within which mobile automated teller machines  
19           owned by any such institution are deployed.”.

20           (b) CLERICAL AMENDMENT.—The table of contents  
21 for chapter 51 of title 31, United States Code, is amended  
22 by inserting after the item relating to section 5103 the  
23 following:

“5104. Retail businesses prohibited from refusing cash payments.”.